

1 CYNDY DAY-WILSON (SBN 135045)  
cday-wilson@ci.eureka.ca.gov  
2 **CITY ATTORNEY, EUREKA**  
531 K Street  
3 Eureka, CA 95551  
Telephone: 707-441-4147  
4 Facsimile: 707-441-4148

5 MICHAEL A. SWEET (SBN 184345)  
msweet@foxrothschild.com  
6 JACK PRAETZELLIS (SBN 267765)  
jpraetzellis@foxrothschild.com  
7 **FOX ROTHSCHILD LLP**  
345 California Street, Suite 2200  
8 San Francisco, CA 94104  
Telephone: 415-364-5540  
9 Facsimile: 415-391-4436

10 Attorneys for CITY OF EUREKA  
11 Creditor and Real Party in Interest

12 UNITED STATES BANKRUPTCY COURT  
13 NORTHERN DISTRICT OF CALIFORNIA  
14 SANTA ROSA DIVISION  
15

16 In re:  
17 FLOYD E. SQUIRES III AND  
18 BETTY J. SQUIRES,  
19 Debtors.  
20  
21  
22  
23  
24  
25  
26  
27  
28

CASE No. 17-10828 WJL 11

Chapter 11

**OBJECTION OF CITY OF EUREKA TO  
EX-PARTE APPLICATION TO  
APPROVE BROKER'S LISTING  
PURSUANT TO 11 U.S.C. SECTION 327**

Creditor City of Eureka (the “City”) hereby submits its Objection to the *Ex-Parte Application to Approve Broker’s Listing Pursuant to 11 U.S.C. § 327* [Docket No. 111] (the “Ex-Parte Application”). In support of this Objection, the City respectfully represents as follows:

**OBJECTION**

1. The City objects to the Ex-Parte Application because the debtors in possession (the “Debtors”) have demonstrated that they are not capable of making sound business decisions or administering this estate in the best interests of creditors and other constituents.

2. The City has described the urgent necessity for the Court to appoint a neutral fiduciary in its *Motion to Appoint Chapter 11 Trustee* (the “Trustee Motion”) and supplemental filings in support thereof. *See, e.g.*, [Docket Nos. 58, 59, 60, 62, 63, 66, 101]. The Trustee Motion is set for two days of trial on March 26 and April 2, 2018.

3. In addition, the United States Trustee (“UST”) has described further grounds to remove this chapter 11 case from the control of the Debtors in its *Motion of the United States Trustee, Pursuant to 11 U.S.C. § 1112(b) and Federal Rules of Bankruptcy Procedure 1017(f) and 9014, to Dismiss or Convert Chapter 11 Case* (the “UST Motion”). See [Docket No. 102]. A status conference/preliminary hearing on the UST Motion is set for February 28, 2018.

4. According to the Ex-Parte Application, the property that the Debtors are seeking to list with the proposed broker has a fair market value of \$1,180,000. However, the Vacant Land Listing Agreement attached to the Ex-Parte Application states that the proposed listing price is \$80,000 and that the proposed commission is 6%.

5. Regardless of whether either value for the property is correct, the Court should not consider the Ex-Parte Application until after the Court rules on the Trustee Motion and the UST Motion. As set forth in these motions and as will be proven to the Court, there is overwhelming “cause” to appoint a chapter 11 trustee in this case, whose independent judgment should be obtained before proceeding with the proposed listing of property or any other matters that could significantly affect the administration of the Debtors’ estate.

6. Indeed, the Ex-Parte Application does not provide any detail or specifics to support the need for the Debtors to list this property for sale at this time on these proposed terms. Instead,

1 the Ex-Parte Application makes only the general statement that “[i]t is in the best interest of the es-  
2 tate, secured creditors and unsecured creditors to sell the said real property at its fair market value.”

3 7. The Ex-Parte Application does not provide any grounds for the requested relief to be  
4 granted *ex parte* or on an expedited basis. Thus, there should be no prejudice to the estate or the  
5 value of the property if the Court defers ruling on the Ex-Parte Application for two or three weeks  
6 (at most).

7 WHEREORE, the City respectfully requests that the Court (i) defer any ruling on the Ex-  
8 Parte Application pending resolution of the Trustee Motion and the UST Motion, and (ii) grant such  
9 other and further relief as is just and proper.

10  
11 Dated: February 26, 2018

12 FOX ROTHSCHILD LLP

13  
14 By /s/ Michael A. Sweet  
15 Michael A. Sweet  
16 Attorneys for Creditor and Real Party in Interest  
17 City of Eureka  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28